

NOTE: Appearing first is the Full Board summary which is the last meeting of the day. The committees will follow in the order of which time they were conducted. The Dealer Board staff felt it would benefit our readers to have the last meeting of the day appear first on the website.

~ FINAL ~

Meeting Summary
Motor Vehicle Dealer Board
Monday, May 14, 2012

Chairman Rick Holcomb called the Dealer Board meeting to order at 12:20 p.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. The roll was called and there were 18 Board members present. Present were members Andy Alvarez, Ted Bailey, Roy Boswell, Lynn Hooper, Art Hudgins, Brian Hutchens, Ronald Kody, Wanda Lewark, Chip Lindsay, Matt McQueen, Thomas Moorehead, Kevin Reilly, Joe Tate, Jimmy Whitten, Rodney Williams, Sally Woodson and Tommy Woodson. (Absent: George Pelton). Executive Director Bruce Gould, Peggy Bailey, Prin Cowan, Ann Majors, Wanda Neely and Frank McCormick represented the Dealer Board. Eric Fiske represented the Attorney General's Office. Alice Weedon was the recording secretary.

PUBLIC COMMENT

There was no public comment.

The March 12, 2012 meeting summary was approved.

STATUTORY COMMITTEE REPORTS

Dealer Practices Committee:

Chairman Tommy Woodson summarized discussions held and actions that were taken during the Committee Meeting.

- **Leon Martin Motor Company and Sandra Morgan.** The Board has reviewed and considered the facts and evidence and the report of an informal fact-finding conference as prepared by the hearing officer concerning Leon Martin Motor Company and Sandra Morgan for alleged violations of Va. Code Section(s) 46.2-1529; 46.2-1530; 46.2-1533; 46.2-1547; and 46.2-1575 subsections (4), (6), (14), and (18). Based on due consideration, the Board believes a civil penalty should be assessed against Leon Martin Motor Company and Sandra Morgan. The Board hereby assesses a \$2,750 civil penalty against Leon Martin Motor Company and Sandra Morgan; and based on due consideration, the Board believes that all licenses and certificates of qualification issued by the Board to Ms. Morgan should be revoked. The Board hereby revokes all licenses and certificates of qualification issued by the Board to Ms. Sandra Morgan.

Kevin Reilly seconded. The motion carried unanimously.

- **Amherst Car & Truck Sales, Inc. and John S. Turner.** The Board has reviewed and considered the facts and evidence and the report of an informal fact-finding conference as prepared by the hearing officer concerning Amherst Car & Truck Sales, Inc. and John S. Turner for alleged violations of Va. Code Section(s) 46.2-1550 and 56.2-1550.2. Based on due consideration, the Board believes that successfully completing the dealer-operator course would benefit Mr. Turner in running his dealership. The Board mandates that Mr. Turner successfully complete the dealer-operator course by November 14, 2012. Failure to successfully complete the course by this date will result in a suspension of all licenses and certificates issued to Mr. Turner by the Board until such time Mr. Turner has successfully completed the course.

Joe Tate seconded. The motion carried unanimously.

- **Car Store and Elena Valeeva.** The Board has reviewed and considered the facts and evidence and the report of an informal fact finding conference as prepared by the hearing officer concerning Car Store and Elena Valeeva for alleged violations of Va. Code Section 46.2-1550.1. Based on due consideration, the Board believes that successfully completing the dealer-operator course would benefit Ms. Valeeva in running her dealership. The Board mandates that Ms. Valeeva successfully complete the dealer-operator course by November 12, 2012. Failure to successfully complete the course by this date will result in the assessment of a \$500 civil penalty and suspension of all licenses and certificates issued to Ms. Valeeva by the Board until such time Ms. Valeeva has successfully completed the course.

Matt MacQueen seconded. The motion carried unanimously.

- **Shannon's Used Cars, Inc. and James Pucci.** The Board has reviewed and considered the facts and evidence and the report of an informal fact finding conference as prepared by the hearing officer concerning Shannon's Used Cars, Inc. and James Pucci for alleged violations of Va. Code Sections 46.2-1529.1; 46.2-1547; 46.2-1550; 46.2-1574; and 46.2-1575 subsections (1),(6) and (12). Based on due consideration, the Board believes a civil penalty should be assessed against Shannon's Used Cars, Inc. and James Pucci. The Board hereby assesses a \$5,000 civil penalty against Shannon's Used Cars, Inc. and James Pucci; and based on due consideration, the Board believes that successfully completing the dealer-operator course would benefit Mr. Pucci in running his dealership. The Board mandates that Mr. Pucci successfully complete the dealer-operator course by November 14, 2012. Failure to successfully complete the course by this date will result in a suspension of all licenses and certificates issued to Mr. Pucci by the Board until such time Mr. Pucci has successfully completed the course.

Sally Woodson seconded. The motion carried unanimously.

Licensing Committee

Chairman Jimmy Whitten summarized discussions held and actions that were taken during the Committee Meeting.

- **TrueCar.** The Board has reviewed and considered the pricing/fee model proposed by TrueCar and has determined that the proposal is not consistent with Virginia law.

Brian Hutchens seconded. All in favor: 16 (Holcomb, Hooper, Reilly, Alvarez, Bailey, Boswell, Hudgins, Hutchens, Lewark, Lindsay, McQueen, Moorehead, Tate, Whitten, Williams, T. Woodson). Opposed: 2 (Kody and S. Woodson). The motion carried.

- **Mark Smoot, Auto Center.** The Board has reviewed and considered the facts and evidence and the report of an informal fact finding conference as prepared by the hearing officer concerning Mark T. Smoot for alleged violations of Va. Code Sections 46.2-1575 subsections (1) and (9). Based on due consideration, the Board believes that successfully completing the dealer-operator course would benefit Mr. Smoot in running his dealership. The Board mandates that Mr. Smoot successfully complete the dealer-operator course by November 14, 2012. Failure to successfully complete the course by this date will result in a suspension of all licenses and certificates issued to Mr. Smoot by the Board until what time Mr. Smoot has successfully completed the course.

Tommy Woodson seconded. The motion carried unanimously.

- **David L. Goad, David's Auto Sales.** The Board has reviewed and considered the facts and evidence and the report of an informal fact finding conference as prepared by the hearing officer concerning David L. Goad for alleged violations of Va. Code Sections 46.2-1550; and 46.2-1575 subsections (1) and (9). Based on due consideration, the Board believes no action should be taken against David L. Goad. The Board hereby takes no further action civil penalty against David L. Goad.

Art Hudgins seconded. The motion carried unanimously.

- **Earnest W. Harrison, Auto World of Chester.** The Board has reviewed and considered the facts and evidence and the report of an informal fact finding conference as prepared by the hearing officer concerning Earnest W. Harrison for alleged violations of Va. Code Section 46.2-1575.13. Based on due consideration, the Board believes a civil penalty should be assessed against Earnest W. Harrison. The Board hereby takes assesses a \$1,000 civil penalty against Earnest W. Harrison; and based on due consideration, the Board believes Mr. Harrison's dealer-operator certificate of qualification should be revoked. The Board hereby revokes Mr. Harrison's dealer-operator certificate of qualification and that he be allowed to retain his salespersons certificate of qualification and license.

Matt McQueen seconded. The motion carried unanimously.

- **Oliver C. Lawrence, Chamberlayne Auto Sales & Repairs.** The Board has reviewed and considered the facts and evidence and the report of an informal fact finding conference as prepared by the hearing officer concerning Oliver C. Lawrence for alleged violations of Va. Code Sections 46.2-1575 subsections (6) and (9). Based on due consideration, the Board believes a civil penalty should be assessed against Oliver C. Lawrence. The Board hereby assesses a \$1,000 civil penalty against Oliver C. Lawrence; and based on due consideration, the Board believes that successfully completing the dealer-operator course would benefit Mr. Oliver C. Lawrence and Kim B. Lawrence. The Board mandates that Mr. Lawrence

successfully complete the dealer-operator course by October 14, 2012 and urges Ms. Lawrence to complete the course as well. Failure to successfully complete the course by this date will result in a suspension of all licenses and certificates issued to Mr. Lawrence by the Board until such time Mr. Lawrence has successfully completed the course. If both Mr. and Ms Lawrence successfully completes the course by October 14, 2012, the civil penalty will be reduced to \$500.

Joe Tate seconded. The motion carried unanimously.

- **Gerald Kazembe.** Based on the evidence and a report of an informal fact finding conference as prepared by a hearing officer, the Motor Vehicle Dealer Board, revoked Mr. Gerald Kazembe's salesperson certificate of qualification; and Mr. Kazembe appealed the Board's decision and requested a formal hearing that was conducted on March 8, 2012. The Board has reviewed and considered the facts and evidence and the report of an informal fact-finding conference as prepared by the hearing officer concerning Gerald Kazembe for alleged violations of Va. Code Sections 46.2-1542(B); 46.2-1544; and 46.2-1575 subsections (1), (2), (4), (6) and (9). Based on due consideration, the Board believes a civil penalty should be assessed against Gerald Kazembe. The Board hereby assesses a \$48,000 civil penalty against Gerald Kazembe; and based on due consideration, the Board believes that all licenses and certificates issued by the Board to Mr. Kazembe should be revoked. The Board hereby revokes all licenses and certificates issued by the Board to Mr. Kazembe.

Thomas Moorehead seconded. The motion carried unanimously.

- **Richard W. DeBolt.** No action needed. Mr. DeBolt withdrew his application.
- **Mark L. Steward.** Based on the evidence and a report of an informal fact finding conference as prepared by a hearing officer, the Motor Vehicle Dealer Board, denied Mr. Mark L. Steward's application for a salesperson license; and Mr. Steward appealed the Board's decision and requested a formal hearing that was conducted on January 19, 2012. The Board has reviewed and considered the facts and evidence and the report of an informal fact finding conference as prepared by the hearing officer concerning Mark L. Steward for alleged violations of Va. Code Section 46.2-1575 (13). Based on due consideration, the Board believes Mr. Steward's application should be denied. The Board denies Mr. Steward's application for a salesperson license.

Roy Boswell seconded. The motion carried unanimously.

Advertising Committee

Chairman Kevin Reilly summarized discussions that were held during the Committee Meeting.

Transaction Recovery Fund Committee:

Chairman Lynn Hooper summarized discussions held and actions that were taken during the Committee Meeting.

- Pennelton Cochran, III and Showcase Select Imports and Michael & Sharon Russ and Absher Sales.** Chairman Lynn Hooper summarized for the Board the discussion held in the committee meeting regarding Pennelton Cochran, III and Showcase Select Imports and Michael & Sharon Russ and Absher Sales. Based on that discussion and the recommendations in these cases, Mr. Hooper made the following motion: Pursuant to VA Code Section 46.2-1527.1 et. seq. of the Code of Virginia, which is known as the Motor Vehicle Transaction Recovery Fund (“Fund”), the Board has reviewed and considered the claims submitted for payment from the Fund and based on due consideration and recommendation of the hearing officer, the Board believes the following claims should be payable from the Fund:

Pennelton Cochran, III and Showcase Select Imports	\$20,000.00
Michael & Sharon Russ and Absher Sales	\$20,000.00

Sally Woodson seconded. The motion carried unanimously.

OLD BUSINESS

There was no old business

OLD BUSINESS FROM THE FLOOR

There was no old business from the floor.

NEW BUSINESS

NEW BUSINESS FROM THE FLOOR

General Assembly Update: Bruce Gould indicated that the legislation impacting forms and the Transaction Recovery Fund are on track for implementation on July 1, 2012. Rick Holcomb indicated that DMV is upgrading print-on-demand 30-day temporary tags with a durable paper that no longer requires a plastic sleeve to affix to the vehicle. The new weather-resistant tags will be issued exclusively through the Print-on-Demand (PoD) temporary tag program, beginning July 1, 2012. DMV will supply the paper at no charge and distribution will take place in mid-June. Over the course of the next year, bond paper with plastic sleeves and red cardboard tags will be phased out.

Executive Director’s Report. Bruce Gould indicated we have hired a new field representative to work out of Lebanon. The employee is a former law enforcement officer and is currently teaching law enforcement in a public school. He also indicated that staff is looking into providing the board meeting books electronically. If anyone is interested in receiving the books electronically, to let him know.

The next meeting will be scheduled for July 9, 2012.

There being no further business to come before the Motor Vehicle Dealer Board, Chairman Holcomb adjourned the meeting at 1:24 p.m.

Meeting Summary
Dealer Practices Committee
Monday, May 14, 2012

Chairman Tommy Woodson called the Dealer Practices Committee meeting to order at 9:00 am. in Room 702 of the DMV Headquarters Building at 2300 W. Broad Street in Richmond. Present were Committee members Ted Bailey, Ronald Kody, Chip Lindsay, Matt McQueen, Thomas Moorehead, Kevin Reilly, Joe Tate, Jimmy Whitten, Rodney Williams and Sally Woodson. Other Board members present: Art Hudgins, Andy Alvarez, Brian Hutchens, Wanda Lewark, Lynn Hooper, Rick Holcomb, Roy Boswell. Executive Director Bruce Gould, Peggy Bailey, Prin Cowan, Ann Majors, Frank McCormick and Wanda Neely represented the Dealer Board. Eric Fiske represented the Attorney General's office.

The March 12, 2012 meeting summary was approved.

PUBLIC COMMENT

There was no public comment.

OLD BUSINESS

OLD BUSINESS FROM THE FLOOR

There was no old business from the floor.

NEW BUSINESS

Review and Action: Informal Fact-Finding Conferences:

- **Leon Martin Motor Company and Sandra Morgan.** On March 14, 2012, an informal fact-finding conference was conducted to address the alleged violations of VA Code Section(s) 46.2-1529 (failure to maintain all dealer records on the premises of the licensed location), 46.2-1530 (failing to maintain buyer's orders), 46.2-1533 (failure to maintain posted business hours), 46.2-1547 (failure to maintain liability insurance), 46.2-1575 (4) (Defrauding any retail buyer to the buyer's damage), (6) (having used deceptive acts or practices), (14) (failure to submit to the DMV within 30 days from the date of sale, any application, tax or fee collected for DMV), and (18) (failure to maintain automobile liability insurance). Based on the information provided at the conference, the hearing officer recommended that all dealer licenses and certificates from the Leon Martin Motor Company be revoked. Also the hearing officer recommended the following civil penalties: \$250 civil penalty for violations of VA Code Sections 46.2-1529-1530, 1533 and 1547. A \$500 civil penalty for violations of 46.2-1575(4), (6), (14) & (18) for a total civil penalty of \$2,750.

Motion was made by Kevin Reilly to accept the hearing officer's recommendation. Matt McQueen seconded. The motion carried unanimously.

- **Amherst Car & Truck Sales, Inc. and John S. Turner.** On April 2, 2012, an informal fact-finding conference was conducted to address the alleged violations of VA Code Section(s) 46.2-1550 (improper use of or permitting the improper use dealer's license plates) and 1550(2) (failure to insure temporary transport plates). Based on the information provided at the conference, the hearing officer recommended that Mr. Turner take the Dealer-Operator Course and assess him a \$500 civil penalty.

Mr. Turner was present and spoke on his own behalf.

Motion was made by Kevin Reilly that Mr. Turner is to successfully complete the Dealer Operator course within 6 months. Sally Woodson seconded. The motion carried unanimously.

- **Car Store and Elena Valeeva.** On March 19, 2012, an informal fact-finding conference was conducted to address the alleged violations of VA Code Section(s) 46.2-1550 (1) (Misuse of Dealer Plates). Based on the information provided at the conference, the hearing officer recommended a follow-up inspection, to successfully complete the Dealer-Operator Course and to either reduce or waive the original \$500 civil penalty.

Motion was made Sally Woodson to require Ms. Valeeva to successfully complete the Dealer-Operator course within 60 months. If she fails to do so, a \$500 civil penalty will be assessed. Joe Tate seconded. The motion carried unanimously.

- **Shannon's Used Cars, Inc. and James Pucci.** On April 18, 2012, an informal fact-finding conference was conducted to address the alleged violations of VA Code Section(s) 46.2-1529 (1) (failing to provide proper disclosure), 46.2-1547 (failure to maintain liability insurance), 46.2-1550 (improper use of or permitting the improper use dealer's license plates), 46.2-1574 (failure to be responsible for the acts of the dealers salespersons), 46.2-1575 (1) (material misstatements), (6) (having used deceptive acts or practices) and (12) (leasing, renting, allowing the dealer's plate by persons not specifically authorized under this title). Based on the information provided at the conference, the hearing officer recommended a civil penalty of \$7,000 be assessed and revocation of all licenses.

Mr. Pucci was present and spoke on his own behalf.

Motion was made by Joe Tate to assess a civil penalty of \$5,000 and to successfully complete the Dealer-Operator course. Jimmy Whitten seconded. The motion carried unanimously.

NEW BUSINESS FROM THE FLOOR

There was no new business from the floor.

The next meeting was scheduled for July 9, 2012.

The meeting adjourned at 9:45 a.m.

Meeting Summary
Dealer Licensing Committee
Monday, May 14, 2012

Chairman Jimmy Whitten called the Dealer Licensing Committee meeting to order in Room 702 at 9:45 a.m., DMV Headquarters Building at 2300 West Broad Street in Richmond. Present were Committee members Andy Alvarez, Roy Boswell, Art Hudgins, Brian Hutchens, Wanda Lewark, Joe Tate and Sally Woodson. (Absent: George Pelton) Other Board members present: Matt McQueen, Tommy Woodson, Kevin, Reilly, Rick Holcomb, Lynn Hooper, Chip Lindsay, Thomas Moorehead, Joe Tate, Ted Bailey, Ron Kody. Executive Director Bruce Gould, Peggy Bailey, Frank McCormick, Prin Cowan, Ann Majors and Wanda Neely represented the Dealer Board. Eric Fiske represented the Attorney General's office.

The March 12, 2012 meeting summary was approved.

PUBLIC COMMENT

There was no public comment.

OLD BUSINESS

- **Update: TrueCars.** At its March 12, 2012 meeting, the Virginia Motor Vehicle Dealer board determined that Virginia dealers paying fees to TrueCar (or any other entity) under the then pricing model being utilized by TrueCar were in violation of Virginia Code Section 46.2-1537; accordingly, dealers in violation could face regulatory action including assessment of civil penalties and license suspension or revocation. The MVDB directed the Executive Director to investigate the activities of TrueCar and report back to the MVDB at the March meeting. TrueCar representatives Patrick Watson and John Stevens presented to the Board a different pricing model which now consists of a set fee that varied based on geography and vehicle manufacturer and would change from time to time. Consensus of the committee is that this current proposal appeared to be similar as their proposal at the March meeting.

Motion was made by Joe Tate to reject the recent rate proposal. Art Hudgins seconded. The motion carried unanimously.

- **Update: Independent Dealer Operator Recertification.** Ann Majors stated that 164 dealer-operators have recertified as of April 2012. Course registrations include 169: on-line, 44: classroom, 15: KATS. These registrations include all current registrants whose deadline falls between March 2012 and October 2012.
- **Dealer-Operator Ad Hoc Committee Report.** Ann Majors reported that During the March 12, 2012 Board meeting, the Board heard a presentation requesting the Board authorize an additional traditional 2-day classroom vendor. This presentation proposal also included a request for the Board to allow an online web based Dealer-Operator Educational option.

After the presentation, the Board created an ad-hoc group of Board members and MVDB staff for further exploration and discussion of these two proposed items:

1. Follow up with the Board's direction on additional vendors and web based, online 2-day Dealer-Operator course.
2. Create vendor criteria—review, accept, reject, the MVDB suggested modifications to the current July 18, 2005 Dealer-Operator Educational Requirement.

Motion was made by Jimmy Whitten to put this off for five years and to allow VIADA to continue the educational process and then after that open it up for other vendors to submit proposals. Don Boswell seconded. Wanda Lewark and Joe Tate abstained as they are members of VIADA. The motion carried.

Motion was made by Jimmy Whitten to also wait for five years on a decision concerning allowing an on-line class. Brian Hutchens seconded. The motion carried unanimously.

OLD BUSINESS FROM THE FLOOR:

There was no old business from the floor.

NEW BUSINESS

Review and Action: Informal Fact-Finding Conferences:

- **Mark T. Smoot, Auto Center.** On February 28, 2012, an informal fact-finding conference was conducted to address the alleged violations of VA Code Section(s) 46.2-1575(1) (having made a material misstatement on an application) and (9) (having been convicted of any criminal act involving the business of selling vehicles). Based on the information provided at the conference, the hearing officer recommended Mr. Smoot successfully complete the Dealer Operator Course.

Motion was made by Jimmy Whitten to accept hearing officer's recommendation. Joe Tate seconded. The motion carried unanimously.

- **David L. Goad, David's Auto Sales.** On March 14, 2012, an informal fact-finding conference was conducted to address the alleged violations of VA Code Section(s) 46.2-1550 (improper use of or permitting the improper use of dealer's license plates), 46.2-1575(1) (having made a material misstatement on an application) and 46.2-1575 (9) (Having been convicted of any criminal act involving the business of selling vehicles). Based on the information provided at the conference, the hearing officer recommended that Mr. Goad retain his Salesperson's License.

Motion was made by Wanda Lewark to accept the hearing officer's recommendation. Joe Tate seconded. The motion carried unanimously.

- **Earnest W. Harrison and Auto World of Chester** On February 16, 2012, an informal fact-finding conference was conducted to address the alleged violations of VA Code Section(s) 46.2-1575 (13) (Having been convicted of a felony). Based on the information provided at the conference, the hearing officer recommended assessing a civil penalty of \$1,000. It was further recommended that Mr. Harrison's Dealer Qualification be revoked but be permitted to retain his Salesperson's License.

Motion was made by Joe Tate to accept the hearing officer's recommendation with the exception of reducing the civil penalty to \$500. Sally Woodson seconded. The motion carried unanimously.

- **Oliver C. Lawrence and Chamberlayne Auto Sales & Repairs, Inc.** On March 26, 2012, an informal fact-finding conference was conducted to address the alleged violations of VA Code Section(s) 46.2-1575(6) (having used deceptive acts or practices) and 46.2-1575 (9) (Having been convicted of any criminal act involving the business of selling vehicles). Based on the information provided at the conference, the hearing officer recommended assessing a civil penalty of \$500 for violations of 1575(6) and suspension of his operator/dealer license for 120 days for Mr. Lawrence only and assessing a civil penalty of \$500 for violations of 1575(9) and suspension of 120 days for Mr. Lawrence only.

Kurt Brickman, Esquire and Mr. Lawrence were present and Mr. Brickman spoke on behalf of his client.

Motion was made by Joe Tate to assess a \$1,000 civil penalty and he and his wife successfully complete the Dealer-Operator course. Brian Hutchens seconded. The motion carried unanimously.

- **Gerald Kazembe, Salesperson.** On March 8, 2012, an informal fact-finding conference was conducted to address the alleged violations of VA Code Section(s) 46.2-1539 (inspections of vehicles required, in specific, safety inspection requirements), 46.2-1542(B) (Temporary Registration), 46.2-1544 (Assignment of Title), 46.2-1575(1) (having made a material misstatement on an application) (2) (Failure to comply with a written warning), (4) (Defrauding any retail buyer to the buyer's damage), (6) (having used deceptive acts or practices) and (9) (Having been convicted of any criminal act involving the business of selling vehicles). Based on the information provided at the conference, the hearing officer recommended that all licenses and certificates of qualification to sell motor vehicles in the Commonwealth of Virginia be revoked. It is further recommended that a civil penalty of \$48,000.00 be assessed against Gerald Kazembe.

Mr. Kazembe was present and spoke on his own behalf.

Motion was made by Joe Tate to accept the hearing officer's recommendation. Sally Woodson seconded. The motion carried unanimously.

- **Richard W. DeBolt, Jr.** On April 17, 2012, an informal fact-finding conference was conducted to address the alleged violations of VA Code Section(s) 46.2-1537 (failure to have salespersons properly licensed), 46.2-1575 (1) (having made a material misstatement on an application), (4) (Defrauding any retail buyer to the buyer's damage) and (6) (having used deceptive acts or practices). Based on the information provided at the conference, the hearing officer recommended that Mr. DeBolt's Application for a Motor Vehicle Salesperson's License to sell vehicles for Variety Motors, Inc. be denied. Mr. DeBolt withdrew his application; therefore no action is taken at this time.

Review and Action: Formal Hearing:

- **Mark L. Steward, Salesperson.** Historical overview leading up to the formal hearing: On September 27, 2011, an informal fact-finding conference was conducted to address the alleged violations of VA Code Sections 46.2-1575 (13) (having been convicted of a felony). At the November 14, 2011 Licensing Committee and Full Board meeting, the members passed a resolution denying Mr. Steward's application for a motor vehicle salesperson's license. On December 11, 2011, Mr. Steward appealed and requested a formal hearing. On January 19, 2012, a formal hearing was conducted to address the alleged violations as mentioned above. Based on the information provided at the hearing, the hearing officer recommended that Mr. Steward be denied a salesperson's license in the Commonwealth of Virginia.

Motion was made by Jimmy Whitten to accept the hearing officer's recommendation. Roy Boswell seconded. The motion carried unanimously.

NEW BUSINESS FROM THE FLOOR

There was no new business from the floor.

The next meeting was scheduled for July 9, 2012.

The meeting adjourned at 11:26 a.m.

Meeting Summary
Advertising Committee
Monday, May 14, 2012

Chairman Kevin Reilly called the Advertising Committee meeting to order in Room 702 at 11:26 a.m., DMV Headquarters, 2300 West Broad Street, Richmond, Virginia. Present were Committee members Andy Alvarez, Chip Lindsay, Matt McQueen, Rodney Williams and Sally Woodson . (Absent: George Pelton). Other Board members present: Art Hudgins, Brian Hutchens, Roy Boswell, Rick Holcomb, Lynn Hooper, Jimmy Whitten, Joe Tate, Wanda Lewark, Ted Bailey. Executive Director Bruce Gould, Peggy Bailey, Frank McCormick, Prin Cowan, Ann Majors and Wanda Neely represented the Dealer Board. Eric Fiske represented the Attorney General's office.

The March 12, 2012 meeting summary was approved.

PUBLIC COMMENT

There was no public comment.

OLD BUSINESS

Update: Internet Advertising. Bruce Gould tested some dealer web sites to see how the different operations work. He indicated that the dealers are reminded that they are responsible for all advertisements for their motor vehicles including all internet advertising. Internet advertisements including videos and YouTube postings must adhere to the same advertising guidelines as print or television. He indicated that he will urge all dealers that advertise on the internet to review these advertisements very carefully as he is finding many that are not in keeping with Virginia law and regulations.

OLD BUSINESS FROM THE FLOOR

There was no old business from the floor.

NEW BUSINESS

The next meeting was scheduled for July 9, 2012.

NEW BUSINESS FROM THE FLOOR

There was no new business from the floor.

The meeting adjourned at 11:33 a.m.

Meeting Summary
Transaction Recovery Fund Committee
Monday, May 14, 2012

Chairman Lynn Hooper called the Transaction Recovery Fund Committee meeting to order at 11:33 a.m. in Room 702 of the DMV Headquarters Building at 2300 West Broad Street in Richmond. Present were Committee members: Andy Alvarez, Ted Bailey, Roy Boswell, Brian Hutchens, Matt McQueen, Thomas Moorehead and Kevin Reilly. (Absent: No one). Other Board members present: Rodney Williams, Tommy Woodson, Rick Holcomb, Jimmy Whitten, Chip Lindsay, Joe Tate, Wanda Lewark, George Pelton, Ronald Kody. Executive Director Bruce Gould, Peggy Bailey, Prin Cowan, Frank McCormick, Ann Majors and Wanda Neely represented the Dealer Board. Eric Fiske represented the Attorney General's office.

The March 12, 2012 summary was approved.

PUBLIC COMMENT

There was no public comment.

OLD BUSINESS

OLD BUSINESS FROM THE FLOOR

There was no old business from the floor.

NEW BUSINESS

Review and Action: Informal Fact-Finding Conference Results:

Pennelton Cochran, III and Showcase Select Imports. On May 15, 2009, Mr. Cochran went to Showcase Exclusive Imports, Inc. (Showcase) with the intention of trading in his 2003 Lexus LS 430 for a newer model. At which time, Showcase did not have a vehicle that Mr. Cochran wanted to purchase, but agreed to sell his vehicle (2003 Lexus) and find him a newer model to purchase.

On May 22, 2009, Showcase advised Mr. Cochran that they had sold his 2003 Lexus and that they were still searching for a newer model for him to purchase. On June 23, 2009, Showcase contacted Mr. Cochran and indicated they had located a 2006 Lexus GS 300. On June 30, 2009, Mr. Cochran went to Showcase to inspect the 2006 Lexus. During the inspection, Mr. Cochran brought to the attention of Showcase his 2003 Lexus still had an existing loan to Richmond Postal Credit Union, in which had not yet been paid off. Janice Parker, a licensed salesperson/general manager for Showcase indicated that the owner (Virgil Williams) had already sent the payoff check via FedEx. Mr. Cochran believed Ms. Parker and completed the Buyer's Order and all the required documentation to purchase the 2006 Lexus. On July 8, 2009, Mr. Cochran spoke to Ms. Parker again regarding the payoff on the 2003 Lexus which still had not been completed and he was told that the payoff would be resolved within thirty (30) days. Instead, Showcase remitted a partial payment of \$600.00 to Richmond Postal Credit Union.

The outstanding balance of \$18,777.69 remains due on the Lexus and continues to accrue interest at a rate of 7%. In addition, Mr. Cochran has paid \$6,300.00 for payments on the 2003 Lexus in an attempt to avoid further damage to his credit. Mr. Cochran obtained legal counsel (Jennifer Sherwood, Esquire) in order to pursue Showcase civilly in court in connection with the vehicle he was lead to believe was a traded-in and the loan was never paid off. On November 16, 2011, Ms. Sherwood, on behalf of Mr. Cochran, filed a Warrant in Debt in the Newport News General District Court against Showcase for Breach of Contract, Warranty, Fraud, and multiple violations of the Va. Consumer Protection Act.

On December 21, 2011, the General District Court for Newport News awarded Mr. Cochran a default judgment against Showcase Exclusive Imports, Inc. t/a Showcase Select Imports on the basis of misrepresentation & fraud. The judgment amount was awarded as follows, (a) \$25,000.00 compensatory damages; (b) \$1,500.00 attorney fees; (c) \$76.00 court costs; and (d) interest at 6% from date of judgment until fully paid. The Dealer Board staff is not unsympathetic to Mr. Cochran's situation or to any of the victims that have been defrauded by Showcase. However, the Fund is simply an alternative remedy available to a judgment creditor; it was not intended to be the sole or exclusive collection method for victims of fraud. The Board takes its fiduciary responsibilities in managing the Fund very seriously and they usually ask a lot of questions about each claim. Should the Recovery Fund Committee and full Board approve, Mr. Cochran's claim, pursuant to Va. Code §46.2-1527.5, if the aggregate of claims does not exceed the \$100,000, payment from the Fund would not be issued until the end of the relevant license or registration period [April 30, 2012].

On April 12, 2012, an informal fact-finding conference was conducted and based on the information provided at the conference, the hearing officer recommended that Mr. Cochran not be considered for payment from the Fund as it appears that the 2003 Lexus was not a trade-in; but rather a separate transaction from the purchase of the 2006 Lexus.

Mr. Cochran was present and spoke on his own behalf.

Motion was made by Kevin Reilly to pay the judgment to Mr. Cochran. Matt McQueen seconded. All in favor: 8 (Bailey, Alvarez, Boswell, Hudgins, Hutchens, McQueen, Moorehead, Reilly). Opposed: 1 (Hooper). The motion carried.

Michael B. and Sharon E. Russ and Absher Sales. On July 10, 2002, Michael B. and Sharon E. Russ (the Russ') entered into a contract to purchase a 1999 Subaru, Legacy Outback from Absher Sales located in Pounding Mill, Virginia. The base price of the Subaru was \$16,495.00, in connection with the purchase the Russ' traded-in a 1999 Pontiac and was given a gross allowance of \$11,810.00 with a balance owed of \$10,809.16 leaving a net trade-in value of \$1,000.84 making the cash price for the purchase of \$15,494.16. Jeffrey Curtis, who served as both salesperson and finance manager for Absher Sales arranged the financing of the purchase through WFS Financial. At the time of the purchase, Mr. Russ inquired about the paint odor he noticed emanating from the Subaru. Upon the inquiry, Jeffrey Curtis acting as agent for Absher Sales stated that the Subaru had recently been painted but that it only been involved in a fender bender, with minor damage. Mr. Russ, concerned about the extent of the damage that required repair of the vehicle, expressed to Mr. Curtis that he felt he should request a CARFAX. Mr. Curtis, in an effort to address concern of Mr. Russ and to divert him from requesting a CARFAX, stated that he was a Christian and that he was telling him straight up what was wrong with the vehicle

was the truth. Mr. Russ chose not to request the CARFAX and took possession of the 1999 Subaru. In the spring of 2003, the Russ' began experiencing mechanical problems with the Subaru.

In February, 2004, the Russ' took the Subaru to Ramey Ford in Tazewell, Virginia to trade-in for another vehicle. The salesperson for the dealership obtained a CARFAX on the 1999 Subaru, which disclosed that the Subaru had been involved in (2) two separate major accidents with (2) two resulting Salvage titles in its title history. Upon receipt of the report, the dealership was unwilling to accept a trade of the vehicle on any terms. This was the first time, which the Russ' were made aware of these matters in their car's title history. They would not have purchased the vehicle from Absher Sales if they had known that the Subaru had one salvage title in its history, much less two.

On June 1, 2004, WFS Financial, Inc. filed a Warrant in Debt in the Virginia Beach General District against Sharon & Michael Russ, reflecting the basis of this claim was for Contract. [Later, the case was moved to the Circuit Court of Tazewell County]. On June 2, 2004, the Russ' obtained legal counsel (Roger Mullins, Esquire) in order to pursue Charlie Absher d/b/a Absher Sales civilly in court for their monetary loss. On June 8, 2004, Mr. Mullins filed a Motion for Judgment in the Circuit Court for Tazewell County against Charlie Absher d/b/a Absher Sales. On October 11, 2006, the Circuit Court of Tazewell County awarded WFS Financial a deficiency judgment against the Sharon & Michael Russ in the amount of \$9,201.98 plus court costs of \$49.00. On July 14, 2008, Mr. Mullins re-filed a "Complaint" in the Circuit Court for Tazewell County against Charlie Absher d/b/a Absher Sales. On March 17, 2010, Mr. Mullins received "Notice of Chapter 7 Bankruptcy case, Meeting of Creditor in reference to the debtor Charlie Absher d/b/a Absher Sales. On March 19, 2010, Mr. Mullins filed a "Complaint to Determine Dischargeability of Debt" in the United States Bankruptcy Court/Western District of Virginia/Roanoke Division in reference to Charlie Absher d/b/a Absher Sales.

On October 24, 2011, the United States Bankruptcy Court/Western District of Va. /Roanoke Division awarded Sharon E. Russ & Michael B. Russ judgment against Charlie Allen Absher, Sr. in the amount of \$9,705.00 actual damages, plus reasonable attorney fees and costs to be determined upon separate application. In the Memorandum Decision, the court ruled that the actual value would then equate to 40% of the \$16,975 or \$6,790 subtracting that amount from the actual sales price of \$16,495 yields a difference of \$9,705, which the court finds to be the actual damages suffered by the Russ' as a result of the transaction.

Note: At the March 8, 2010 Board meeting, the Dealer Practices Committee and the Board reviewed the findings of fact, the conclusions of law and the hearing officer's report regarding Charlie A. Absher and Absher Sales. The Board adopted a resolution at its March 8th meeting and assessed a civil penalty of \$5,000 and revoked all licenses and certificates, effective April 12, 2010. Alleged violations of Va. Code §§46.2-1529.1(A), 46.2-1532, 46.2-1542, 46.2-1543, 46.2-1559, 46.2-1561 and 45.2-1575(2), (4),(6) and (14). **As of to date, Absher has not paid the civil penalty and in March, 2010 Absher filed a Chapter 7, Bankruptcy.**

On April 18, 2012, an informal fact-finding conference was conducted and based on the information provided at the conference, the hearing officer recommended that the Russ' be considered for payment of \$20,000.00.

Roger Mullins, counsel for Mr. Mrs. Russ was present and spoke on behalf of his clients.

Motion was made by Lynn Hooper to accept the hearing officer's recommendation. Kevin Reilly seconded. The motion carried unanimously.

NEW BUSINESS FROM THE FLOOR

The next meeting was scheduled for July 9, 2012.

The meeting adjourned at 12:07 p.m.